

REMARKS

Applicants gratefully acknowledge the Examiner's acceptance of the drawings filed August 13, 2001.

Claims 1-10 are currently pending in the Application. Claims 2-10 have been amended to correct informalities as follows: The phrase "customizable a solution bundles" has been changed to "customizable solution bundles" in the first lines of Claims 2-10; the term "font-end" has been changed to "front-end" in Claim 4, line 5; the term "resolvin" has been changed to "resolving" in Claim 4, line 16; the phrase "determines what is suitable" has been changed to "determines is suitable" in Claim 5, line 5; the term "recommendin" has been changed to "recommending" in Claim 6, lines 2-3; the term "their" has been changed to "his or her" in Claim 6, line 5; and the phrase "at the time they are customizing their solution" has been changed to "at the time the customer is customizing his or her solution" in Claim 10, lines 5-6. No new matter has been added.

The Claimed Invention

The claimed invention provides a method for defining and using customized bundled sets of products and services associated with special characteristics such as discount pricing and industry personalized solutions. These customized bundles sets of products are referred to as customizable solution bundles.

A customizable solution bundle is defined in the Specification as a subset catalog of the master catalog containing preselected marketable elements that may enable the customer to achieve its business objectives from an end-to-end perspective. The customizable solution bundle represents the potential set of products that a marketing organization has determined to be suitable for a class of customer. Customers are not, however, limited to the products in the customizable solution bundle presented to them. Customers are allowed to select marketable items from this subset catalog in which to

customize their solution, but customers may also purchase items from outside the customizable solution that has been presented to them. By recommending products and guiding the customer through a solution, a significant sales advantage may result to the vendor.

Solution bundles may be tailored to specific industries or other classifications of customers, and therefore many solution bundles may be defined by a given vendor. For example, a solution bundle may include *inter alia* various hardware components, software, consulting services, maintenance, upgradable license agreements, education, and so forth. A solution bundle may be dedicated to a specific industry or class of customer, such as a solution bundle to support a small legal or medical practice. (Specification at page 4, line 14 – page 5, line 6)

In defining *customizable solution bundle*, the Specification draws an express distinction between a customizable solution bundle and “the well known concept of a product configurator whose purpose is to aid the consumer in the customization of elements dedicated to a specific marketable item, such as the amount of memory to be installed within a given processor model.” (Specification at page 5, lines 1-4)

Another distinguishing, definitional feature of a customizable solution bundle, according to the Specification, allows a marketing organization to drive economic advantage for profit maximization and inventory control by relating two or more marketable items within a solution bundle which, when selected by the customer, results in a pricing discount. A variety of differing pricing discounts may be applied against individual marketable elements or to the entire solution bundle as a whole, depending on the rules applied. The application of a pricing discount is dependent on the selection the customer chooses when customizing the solution. (Specification at page 5, lines 7-15)

Use of customizable solution bundles presents significant advantages to both vendors and consumers. For vendors, use of customizable solution bundles allows a marketing organization to maximize profit and inventory control by assigning special price incentives to products and services contained within solution bundles. For consumers, use of customizable solution bundles allows a consumer to be provided the

option of customizing the selection of individual marketable items into a bundle that best suits the consumer's need by implementing methodologies and tools that support the partitioning of a master product catalog into customizable solution bundles, which are distinguished subsets that possess unique properties, business rules, and element characteristics. Consumers may thus adapt, modify, and customize a solution from a given set products and services known to achieve an end-to-end business solution for their industry.

According to the claimed invention, therefore, the process of defining and maintaining a customizable solution bundle definition involves a close coupling of business processes and software applications and tools. First, an established catalog and price process loads data from data sources 11 into the e-commerce application 12. This is deemed the master catalog and contains no entitled or subset catalog definitions. The master catalog contains the entire universe of the vendor marketable items and is the base in which solution bundles may be defined. Prices are recorded as list prices without any discount. The solution bundle business process 13 has the responsibility for defining solution bundle catalog subsets, entitled prices and bundle rules. Using automated and manual means, the owner of this process is also responsible for data validation and consistency throughout the system. Contract management tool supports 14 are used to define a customizable solution bundle and enter it into the e-commerce application 12. Such contract management tool supports include view and subset of master catalog, incentive price discounts, and specification of pricing rules. Using established communication protocols, the e-commerce application 12 manages automated feed that sends the solution bundle definitions to backend systems including fulfillment system 15, product configurator 16 and other components. Each instance of a customizable solution bundle (consisting of catalog, prices, and rules) is assigned a unique solution bundle identifier which may be passed to the backend fulfillment systems and ancillary services. During e-commerce application use by a customer, orders for items from customizable solution bundles are forwarded to the fulfillment system from the e-commerce application.

Rejection of Claims 1-10 Under 35 U.S.C. § 102(e)

The Examiner has rejected Claims 1-10 under 35 U.S.C. § 102(e) as unpatentable over U.S. Patent No. 6,167,383 to Henson. Applicants respectfully traverse on the basis that Claims 1-10 are not anticipated by Henson, as discussed below.

Henson describes a method and apparatus for providing customer-configured machines at an Internet site, pursuant to which a web-based online store includes a configurator, a cart, a checkout, and a database. The claimed invention differs from Henson *inter alia* in the way it employs subset catalogs to define the scope of a solution bundle (*i.e.*, the universe of catalog parts that can be ordered in connection with a solution bundle). Henson does not discuss a “customizable solution bundle” as that term is defined in the Specification.

Prior to the claimed invention, subset catalogs were defined and processed in the prior art according to a customer set such as Federal customers, to use the example given in Henson. (Henson at column 14, lines 23-25, 30-35) Each customer set would have its own subset catalog of the master catalog, with special pricing established, and presented in terms of a specialty store. Each catalog would be given an ID, as in Henson, and the product fulfillment area would look up the appropriate ID to determine whether the member has permission to purchase the item at the price defined for that customer set.

The claimed invention, by contrast, provides capabilities not available in the prior art. For example, where according to the prior art, “[a] customer . . . may not have items taken from two specialty stores within the cart at one time” (Henson at column 10, lines 57-60), the claimed invention does not restrict the ability of a customer simultaneously to purchase items from different customizable solution bundles. That is because the customizable solution bundles are for the purpose of enabling suppliers to group products and do not limit what can be purchased by the customer at fulfillment, as is the case in the invention disclosed by Henson.

According to the claimed invention, each solution bundle is defined as a subset catalog and is given an ID. The subset catalog contains the eligible products and discount prices established for the particular solution bundle. This catalog looks no different to the

product fulfillment area and is processed in the same way as other fulfillment transactions. There is no entitled membership involved with customizable solution bundles according to the claimed invention. Everyone is a member. The bundles exist for the convenience of the supplier and do not include limitations on which customers may access which products from which solution bundles. Customizable solution bundles enable suppliers to group products without limits on which items available in the master catalog can be purchased by the customer at fulfillment, in contrast to the invention disclosed by Henson. As pointed out in the Specification:

The distinction of this invention is the novel and unique adaptive reuse of methods and tools supporting a preexisting function called entitled groups which implements distinguished catalog subsets, but was never intended to support the requirements of customized solution bundles. By observing that customized solution bundles can be mapped into subset catalogs with entitled pricing and business rules applied, the implementation is simple and significantly straight forward. *In fact, to the back-end fulfillment systems and ancillary e-commerce services a customized solution bundle looks no different and is essentially treated the same as any subset catalog with entitled price, provided that the fulfillment system and services recognize a unique encoding that identifies each marketable item to a subset catalog.* We note both entitled groups and customized solution bundles support the concept to distinguished subsets; however, the functional requirements are significantly different between the two. Additionally, subset catalogs for group entitlement are exclusively dedicated to the distinguished membership they are created for. *Customizable solution bundles, on the other hand, span all membership groups without restriction and the same instance of a solution bundle may be arbitrarily included for all customer types at the discretion of the marketing and sales administrators.*

(Specification, page 3, lines 9-27) (emphasis added)

Thus, Henson does not anticipate the claimed invention, because *inter alia* Henson does not foresee a “customizable solution bundle” as that term is defined in the

Specification. “Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim.” M.P.E.P. § 2111.01, citing *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 U.S.P.Q.2d 1065, 1069 (Fed. Cir. 1999); *see also* M.P.E.P. § 2106.

Claims 1, 2, and 4. The Examiner incorrectly found that independent Claims 1 and 4 and dependent claim 2 are anticipated by Henson on the basis, *inter alia*, that Henson has anticipated the claimed invention’s use of a customizable solution bundle, notwithstanding the definition of *customizable solution bundle* provided in the Specification, as discussed above. Henson does not teach or claim solution bundles which may be tailored to specific industries or other classifications of customers but which do not place limitations on what items can be purchased at fulfillment, as discussed above.

The Examiner has admitted that Henson “does not specifically disclose incentive price.” (Office Action at 3) In order to overcome the admitted deficiency of Henson in that regard, the Examiner asserts without citation of any reference that “it was old and well known that a sales rep would apply incentives such as price where appropriate.” (Office Action at 3) Applicants respectfully traverse on the basis that the Examiner’s comments in this regard constitute impermissible hindsight as well as an improper assertion of technical fact in an area of esoteric technology without support by citation of any reference work. *See* M.P.E.P. § 2144.03, citing *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 422-21 (CCPA 1970).

Applicants, therefore, respectfully assert that the Examiner was incorrect in finding Claims 1, 2, and 4 to be anticipated by Henson.

Claims 3, 5-10. The Examiner also incorrectly found dependent Claims 3 and 5-10 to be anticipated by Henson on the basis that Henson has anticipated the claimed invention’s use of a customizable solution bundle, notwithstanding the definition of *customizable solution bundle* provided in the Specification, as discussed above. Henson does not teach or claim solution bundles which may be tailored to specific industries or other classifications of customers but which do not place limitations on what items can be

purchased at fulfillment, as discussed above.

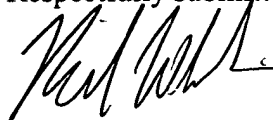
Applicants, therefore, respectfully assert that the Examiner was incorrect in finding Claims 3 and 5-10 to be anticipated by Henson.

Conclusion

In view of the foregoing, Applicant submits that all of the claims are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed.

Applicant hereby makes a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Deposit Account No. 50-0510 (IBM-Yorktown).

Respectfully submitted,



Michael E. Whitham
Registration No. 32,635

Whitham, Curtis & Christofferson, P.C.
11491 Sunset Hills Road, Suite 340
Reston, Virginia 20190
Tel. (703) 787-9400
Fax. (703) 787-7557
Customer No.: 30743